

**REMARKS**

## Election of Single Disclosed Species

This response follows a restriction requirement imposed upon the Applicants under 35 U.S.C. § 121 and a subsequent election of a single disclosed species by withdrawal and cancellation of claims 15-25. It is again noted that withdrawal and cancellation is made without prejudicing Applicants' right to file continuing or divisional applications on the subject matter of the cancelled claims within pendency of the present application.

## Rejection of, and objections to, claims

In the Official Action, the subject matter defined by claims 1, 9-10, 13, and 14 stand rejected as anticipated under 35 U.S.C 102(b) by Ekman et al. The subject matter of claims 3, 8, and 11 stand rejected under 35 U.S.C. 103(a) as unpatentably obvious over Ekman et al.

The Action also states that claims 2, 4-7, and 12 are objected to as dependent upon a rejected parent claim but would be allowable if rewritten to include the limitations of the base and any intervening claims.

This response is made to comply with the objections stated.

Firstly, limitations of claims 2 and 4, which are now cancelled to avoid redundancy, have been added by amendment to parent claim 1. Claim 1, as amended, and all claims dependent therefrom, are therefore believed to now be in allowable form.

Claim 5 as amended is now in independent form and includes limitations of claims 1 and 3 in compliance with the objection. Claim 5 is therefore believed to now be in allowable form.

1       Claim 6 as amended is also presented in independent in compliance with the  
2 objection, and includes limitations of claims 1 and 3. Claim 6 is therefore believed to  
3 be allowable.

4       Amended claim 7 is now in independent form, and includes limitations of claim

5       1. Claim 7 is therefore believed to be allowable in accordance with the objection.

6       Claim 12 as amended is now in independent form and includes limitations of  
7 claim 1. Amended claim 12 is therefore believed to be in allowable form in  
8 compliance with the objection raised in the Action.

9       In light of the arguments and amendments set forth above, the Applicants  
10 request that the rejection of claims 1, 3, and 5 - 14 be withdrawn, and that the  
11 objection to claims 5 - 7 and 12 also be withdrawn.

12      The Applicants note the following:

- 13       • Amendment to claims 1, 5 – 7, and 12 are made for the sole purpose of  
14           placing the claims in independent form in compliance with the  
15           objections raised in the action, and for no other purpose.
- 16       • Cancellation of claims 2 and 4 are made for the purpose of eliminating  
17           redundant language between currently amended claim 1 and original  
18           claims 2 and 4, and for no other purpose.
- 19       • Since the amendments to claims 1, 5 – 7, and 12 merely involve  
20           transporting limitations of previous original claims, under 35 U.S.C. §  
21           112, ¶ 4, such amended claims are not restricted in further than  
22           restricted in the original claims.
- 23       • It is fully intended that each limitation set forth in the amended and  
24           unamended claims be accorded the broadest meaning as set forth in  
25           the claims, the specification, drawings, in accordance with common

1 understanding in the art, and be regarded in the broadest allowable  
2 context according to presently existing case law.

3

- 4 It is emphasized that any exception to the doctrine of equivalents  
5 applied by current case law to any limitation by amendment is  
6 applicable to that limitation only and not to remaining limitations set  
7 forth in any one or more claims.
- 8 Applicants assert that original claims 3, and 8 – 11 remain unamended  
9 but are believed to be in allowable form as dependent upon an  
10 allowable parent claim. Such claims are believed to even further  
11 distinguish over the art of record.

12

13 By virtue of the above explanations for the current amendments, the  
14 Applicants hereby make no concessions nor admissions that the amendments are  
15 intended to limit the scope of equivalents for any claim limitation set forth in this  
16 application, as interpreted by any currently applicable, or future, relevant case law.  
17 The Applicants hereby retain all rights to argue for the application of the doctrine of  
18 equivalents, as set forth in *Graver Tank & Mfg. Co. v. Linde Air Prods. Co.*, 339 U.S.  
19 605, 85 USPQ 328 (1950), *Warner-Jenkinson Co. v. Hilton Davis Chemical Co.*, 520  
20 U.S. 17, 41 USPQ2d 1865 (1997), and their progeny, with respect to any currently  
21 amended claim.

22

23 The Applicants believe that this response constitutes a full and complete  
24 response to the Office Action, and therefore request timely allowance of claims 1, 3,  
25 and 5-14.

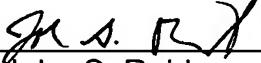
1 Note is made that the current number of independent claims (5) is greater  
2 than the number originally presented (4). A check in the amount of \$44.00 is  
3 included as payment for the additional independent claim fee.

4 The Examiner is respectfully requested to contact the below-signed  
5 representative by telephone if he believes such action will expedite prosecution of  
6 this application.

7  
8 Respectfully submitted,

9 Dee HILLBERRY and Mark MORTIMORE

10  
11 Date: November 15, 2004

12 By 

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S/N: 10/607,113  
Case M004-P01  
Amendment "B"